

The Intelligence.

OFFICE: No. 15 Quincy Street.

FRIDAY, SEPTEMBER 27, 1872.

National Union Republican Ticket.

FOR PRESIDENT, LYLLIES & GRANT.

FOR VICE PRESIDENT, HENRY WILSON, of Massachusetts.

FOR PRESIDENTIAL ELECTORS, WM. E. STEVENSON, of Wood, THOMAS B. SWANN, of Kansas, &c.

10—CHARLES P. SOUTH, of Rhode, M—THOMAS B. CANNADON, of Missouri, N—ROMEO H. FARR, of Kansas.

Great Grant never has been impeached, and never will be.—BOSTON GAZETTE.

While asserting the right of every Republican to an unimpaired election, the candidate for President must not make a mistake in his position to suggest that Grant will be impeached for the purpose of securing a better man.

Grant was in 1869.—BOSTON GAZETTE, 1872, on 10 January, 1871.

Who is it that proposes a Rebellion?

The *Register* publishes a column of a "Radical Rebellion in West Virginia," because we do not propose to submit without protest to the usurpations by which the partisans of that shade are about to obtain control of the entire governmental machinery of the State. Let us notice briefly the only parts of that fabrication which have any claim to be called argument.

The *Register* undertakes to prove the legality of making the constitution retroactive, so as to cover the date of election, by quoting the provisions of the Schedule assuming to make it so. That is like appealing to the will of a criminal as a justification for his crime, or proving the credibility of a witness by his own statements. Of course it would be in accordance with the Schedule for the new constitution after its ratification to become retro-operative, but we deny that such a provision in the Schedule can have any authority as law, because it was made in violation of the fundamental law of the State and was null and void from the beginning. That provision is that no act of the constitution should have any validity before the time when ratified, nor by any shift or device, be made to have any retrospective operation or effect."

Then the *Register* goes on solemnly to argue that to put the constitution in force and subject the people of the State to its provisions eighteen hours before it was ratified—before it possibly could be ratified—while the people of the State were bound to presume they were living under the old constitution—is giving it "a retrospective operation or effect." That is too big a joke to need serious answer.

Two the *Register* turns around and makes its preceding argument unnecessary by declaring that the authority of the Convention was paramount over all other authority in the State. Its remarkable assertion is "That the authority of a Constitutional Convention in any State is limited only by the Constitution of the United States." This is a sweeping and dangerous proposition. Of course, as our contemporary argues, there is no limitation on the kind of a Constitution a Convention may propose. It may propose an absolute monarchy if it chooses. But it can only "propose." That is the extent of its power under the fundamental law of the State by which its authority alone exists and to which it must be subject, precisely as every officer, or other public body, or citizen, or subordinate authority in the State, is subject. A Convention called and empowered only to "propose" a Constitution cannot exercise legislative powers. (See Mr. FAULKNER's address.) It cannot grant charters, or appropriate money or direct the election of officers, for these are all equally legislative acts. The Constitution of the State, which creates both Convention and Legislature, has conferred these powers exclusively to the latter; and when a Convention called into being by the same superior authority, for the sole purpose of proposing changes in the fundamental law, assumes to exercise the functions of the Legislature, it simply usurps powers that do not belong to it. A Constitutional Convention is the creature of the State Constitution precisely as the Legislature is, and can no more overstep the bounds prescribed for it than the Legislature can the bounds prescribed for it. Each has conferred to it certain limited powers and duties. It may assume to possess original and sovereign powers so may the other. There are conventions sometimes which do possess the original powers of the people. Such was that which assembled in this city in June, 1861, and reorganized the abrogated government of Virginia. But when such an original body has organized a government and the people assenting to its acts have agreed to be governed by an organic law, every subsequent step must be taken in subordination to that law. The stream cannot rise higher than its source. Authority delegated to a body by a State Constitution cannot be greater than that Constitution. The will and authority of a State are embodied in its Constitution and can be legitimately exercised only in conformity to its provisions. Any violation of those provisions is null and void from the beginning. A successful and continued defiance of them is revolution.

The *Register* talks about "Radical Rebellion" because we denounce and suggest resistance to the usurpations of its partisans is mere insolence. It is they who are in rebellion against the laws and legitimate authority of the State and we who are seeking to preserve that authority against their lawlessness. Our contemporary, feeling confident in the entrenchment of its faction in power, clutches over the impunity with which it violates the fundamental law of the State. "The Constitution and the schedule have been ratified," it tells us; "the election has been held; the verdict of the people has been pronounced, and from this there is no appeal. Do not be too sure of this, gentlemen. There is and always will be in this country a tribunal to which an appeal may be made, against violence.

The August Election—The Dorr Case.

To the Editors of the Intelligence:

In your editorial of yesterday, you say that the case of Luther M. Borden, et al. v. Howard, et al., commonly known as the Dorr case, is against the position I assume, that the election for officers held on the 23d of August last was legally held. Let us examine this case and see whether it is in point, and if so, does it make for or against me. Prior to May, 1843, Rhode Island was organized under the charter of Charles the Second, granted in 1663, with such legislative alterations as were necessary to adapt it to their condition as a State of the Union. On the 5th of May, 1841, what was termed a mass convention of the male citizens of that State assembled at Newport and adjourned to meet at Providence, July 5th, 1841. These meetings were held at a time when the legal government of the State was in full force and were without any legal authority. The proceedings of this Convention resulted in a Convention which proposed what they termed a constitution, which was adopted by a majority of the voters. Under this alleged constitution Thomas W. Dorr was elected Governor, and the case grew out of his efforts to get possession of the government against the charter government. He failed, was arrested, tried and convicted. During the contest persons acting under authority of the charter government, among whom was Luther M. Borden, broke into the house of one Martin Luther, an adherent of the Dorr government, and Luther sued for a trespass. Here was a contest between two Constitutions and two sets of officers, each claiming to be the true government. In this state of affairs the President of the United States and the Secretary of State, Mr. Adams, issued a proclamation to the people of Rhode Island, in 1842 and West Virginia in 1872, and the case to which you refer has no application to the legality of our August elections. There is however a striking resemblance between the case of Rhode Island in 1842 and Virginia in 1861, except in the case of Rhode Island the President declared in favor of the old government and in the case of Virginia in favor of the new as set up at Wheeling. In deriving the opinion in the case to which you refer, the Supreme Court of the United States says "No, we believe has ever decided the proposition, that, according to the institutions in this country the sovereignty is in every State resides in the people of the State and that they may alter and change their form of government at their own pleasure. You concede the adoption of the Constitution and schedule. In adopting the schedule the people adopted the seventh section of the Constitution, that section they said 'we will on the 23d of August, 1872, elect all officers required to be elected by this Constitution' and they did it. Your mistake rests in the fact that the election was ordered by the Convention, whereas it was ordered by the people in whom resides the sovereignty of the State—and in doing so they were acting in a matter concerning which they were absolutely sovereign—the selection of their local officers. What law statutory or constitutional did the people violate in doing this?"

We were aware before the reception of our correspondent's favor that the Rhode Island case was a very different one from our own. There was one point, however, that seemed worthy of our correspondent's attention in view of his opinion that a vote of approval by the people had made the August election of officers valid whether the election was held according to law or not. All we claimed for the Dorr case was that it showed that an illegal proposition is not made legal by a popular ratification. All the proceedings preliminary to the vote on the Dorr constitution were without authority of law. Only a part of those preliminary to our election were so. There was a difference of degree—not of principle. The popular approval in Rhode Island could not validate a constitution which had been illegally framed and submitted. So likewise, it seems to us the popular sanction here could not legalize an election ordered and held without authority of law.

We beg to suggest that our correspondent (like the *Register*) falls into error when he talks about the schedule having been ratified by the people. The schedule was no part of the Constitution. It was simply by an ordinance of the Convention, legislative in its nature, to provide for submitting the Constitution to a vote and for holding an election for officers. The schedule itself was not submitted for ratification or rejection. We voted on the Constitution alone. There was no authority for taking a vote on anything else. The schedule, therefore, derived none of that remarkable authority which our correspondent professes to find in a popular vote. It had precisely such authority as the Convention was empowered to give it and no other; and so far as that related to the provision for an election of officers, it was exactly no authority at all. The whole argument of our correspondent rests on his assumption that the people ratified the schedule and thereby legalized the election for officers provided for in it and the retrospective effect it attempts to give to the Constitution; the fact being that the schedule was not a subject of popular vote at all, was not voted on, and was not ratified. The argument falls to the ground, even if it were granted that a popular vote could have the force of law as a thing done in violation of law.

MARRIED.

WATTS—SMITH—Tuesday evening, September 24th, 1872, at 7 o'clock, by Rev. J. P. Smith, of the Methodist Church, William Watts and Miss Sarah P. Smith, daughter of Richard A. Smith, Esq., of this city.

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Special Notices.

MORE IMPORTANT TESTIMONY

Kraft's Diarrhea Compound.

BALTIMORE, March 25th, 1871.

Kraft's Diarrhea Compound has been recommended by me to my customers, because I have found it to be a most reliable remedy for all cases of diarrhea, dysentery, cholera, and all other diseases of the bowels which it is recommended.

Respectfully, DAVID R. POTTS, Proprietor of Potts's Medicine.

WHEELING FEMALE COLLEGE.

Instruction given in Solid Branches, Vocal Music, Instrumental Music, Drawing, Painting, French or German.

Patrons can enter under the charge just organized.

Beware of Counterfeits.

Laughlin's Infant Cordial.

THE CHILD'S CURE WHEN TEETHING.

To relieve Pains, Colic, Windblownness, &c.

Such is the popularity of this Remedy, that it has been counterfeited in various places, and it is therefore necessary to caution the public against the use of any other than the original.

It will be found in all the leading drug stores, and is sold by all the wholesale and retail dealers in the city.

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BATHING-HOUSES HAIR DYE.

This elegant Hair Dye is sold in the World—Paris, London, New York, and elsewhere.

No. 100 Broadway, New York.

ON MARRIAGE.

HAPPY REPLY FOR THOSE WHO from the State of New York and elsewhere.

No. 100 Broadway, New York.

FOR SALE.

CEDAR FARM,

The Homestead of the late Col. Jacob L. Kintner, Situated in Harrison County, Indiana.

On The Ohio River,

About 30 Miles below the Cities of Louisville, New Albany and Jeffersonville, with a wood land tract not connected but nearly adjoining it. It contains 986 Acres of Land.

THE IMPROVEMENTS CONSIST OF AN

Elegant Metal Roof

BRICK DWELLING,

Five Tenement Houses

Other Necessary Buildings,

NINE CISTERNS

Several Springs of Excellent Water.

A Large Young Orchard,

JUST IN BEARING.

From the river to the dwelling is an AVENUE of two rows of Cedar and bearing Chestnut trees, 15 years old and ready for the market.

Along the river front are well-grown Apple, Pear, Peach, and other fruit trees.

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New Advertisements.